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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,288	10/03/2003	Toshiya Wakatsuki	2204-031822	3488
28289	7590	12/21/2005	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			NGUYEN, CAM N	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/678,288	WAKATSUKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cam N. Nguyen	1754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/25/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### **Response to Election/Restriction**

1. Applicant's election with traverse of Group I, claims 1-2, in the reply filed on December 01, 2005 is acknowledged. The traversal is on the ground(s) that "a search for the invention of Group I would be coextensive with that for the invention of Group II. Thus, there would be no undue burden on the Examiner if all claims were to be examined together" (applicants' response page 2, second paragraph). This is not found persuasive because the search required for Group I is not required for Group II. Thus, if both groups are searched, an additional burden is imposed on the Office due to two different search areas being required.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 01, 2005.

### **Claim Objections**

3. Claim 2 is objected to because of the following informalities: in line 1, "defined by Claim1" should be changed to --as defined in Claim 1--. Appropriate correction is required.

**Claim Rejections - 35 USC § 112 (Second Paragraph)**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Regarding claim 1, it is unclear and confusing as to what is being claimed. The claim recites "a complex oxide" which is formed by calcining the porous body which is formed of at least one oxide powder of magnesia, alumina, zirconia, titania and calcia, however, "a complex oxide" cannot be formed by only one oxide selected from this group. Also, if the Ni and/or Co is impregnated simultaneously with the porous body then it would not form "a complex oxide" but a layer or a coating of Ni and/or Co is supported or deposited onto the porous body carrier.

B. Regarding claim 1, the limitation on "catalytic-activity particles" is also unclear and confusing as to what applicants meant by "with the dispersion that 80% or more of said catalytic-activity particles is shared by fine particles of 3.5 nm or less in size" and how is this catalytic-activity particles is distributed on the surface of a porous body as recited in the claim.

**Claim Rejections - 35 USC § 102(a)**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Okado et al., "hereinafter Okado", (US Pat. 6,423,665 B1).

Okado discloses a reforming catalyst comprising a mixed oxide containing Mg and Ca oxide and transition metal (which includes Ni) and Co which are highly dispersed in the mixed oxide (see col. 8, claim 1).

With respect to the claimed catalytic-activity particle size and the dispersion% being claimed, it is inherent that the same catalyst would possess the same characteristics.

There is no patentable distinction seen between the claimed catalyst and that disclosed by Okada, thus the claims are anticipated by the reference.

### **Citations**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

### **Conclusion**

9. Claims 1-4 are pending. Claims 1-2 are rejected. Claims 3-4 are withdrawn due to nonelected (distinct) invention. No claims are allowed.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen/cnn *Cnn*  
December 09, 2005

*Cam N. Nguyen*  
CAM N. NGUYEN  
PRIMARY EXAMINER

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